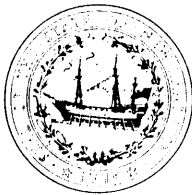


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JUL 25 1988

Major Henry P. Mock
Chief of Law Enforcement
Fish and Game Department
Hazen Drive
Concord, New Hampshire 03301

RE: Annual Commemorative Rifle or Shotgun Lottery

Dear Major Mock:

In a memo to Assistant Attorney General Leslie Ludtke, you posed four (4) questions concerning the above-referenced topic. Attorney Ludtke has informed me that she has provided you with a response to your first question on the issue of liability for defective firearms. Since your remaining questions pertain to the subject of raffles, those questions have been referred to me for a response.

Your memo essentially asks:

1. Whether the Fish and Game Department may be considered a charitable organization within the meaning of RSA 287-A:1, II?;
2. Whether the Fish and Game Department and/or agents selling tickets for the above-referenced rifle or shotgun lottery will be violating RSA 287-A:4 (which prohibits sellers of raffle tickets from receiving financial remuneration) by complying with RSA 206-A:5 (which permits financial remuneration for sellers of the rifle or shotgun lottery tickets)?; and,



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3. Whether the Department is required to obtain the raffle permit described in RSA 287-A:7?

RSA 287-A sets forth the provisions which govern the operation of raffles within the State of New Hampshire. RSA 287-A:2 authorizes a charitable organization to conduct raffles to promote the purpose for which it was organized. "Charitable organization" is defined by RSA 287-A:1,II as "a religious, educational, charitable, civic, veterans or fraternal organization, or political committee or political party which shall have been in existence for at least 2 years and is organized under the laws of this state." Because the Fish and Game Department is a state agency (see RSA 21-G:5,III and IV), it does not fall within the definition of "charitable organization" set forth at RSA 287-A. Thus, since the Department is not a charitable organization, it is not subject to the provisions of RSA 287-A and therefore all of your questions must be answered in the negative.

In addition to the foregoing reasons which support the inapplicability of RSA 287-A to the Department's lottery, one further point should be noted. RSA 206-A, which authorizes the Department's rifle or shotgun lottery, is more specific than RSA 287-A (which deals with the issue of raffles generally) and was enacted subsequent to RSA 287-A. Compare RSA 206-A (Laws of 1985, Chapter 388, section 1, effective July 1, 1985) with RSA 287-A (Laws of 1971, Chapter 43, section 1, effective April 5, 1971). It is a well-established principle of statutory construction that when one statute deals with a subject in general terms, and a subsequently-enacted statute deals with part of the same subject in a more detailed manner, the latter will be regarded as an exception to the general statute if the two conflict. 2A Sutherland, Stat. Const. §51.05, at 499 (4th ed. 1984); see State v. Bell, 125 N.H. 425, 432 (1984). Accordingly, the foregoing principle of statutory construction supports the conclusion that the Department's lottery is exempt from the general provisions of RSA 287-A.

In addition to the specific questions relative to the applicability of RSA 287-A to the Department's rifle or shotgun lottery, your memo to Attorney Ludtke expresses concern over the fact that RSA 206-A does not expressly provide an exemption from the provisions of RSA 647:1 (the statute which imposes criminal penalties upon persons who knowingly conduct lotteries which are not specifically authorized by law).

In enacting RSA 206-A, the legislature granted to the Fish and Game Department the express authority to conduct a lottery. Thus, since the lottery is authorized by law, the provisions of RSA 647, by their very terms, do not apply to this situation.

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See RSA 647:1, IV.

I trust that the foregoing responds to your inquiry. Please do not hesitate to contact me if I can be of further assistance.

Very truly yours,


Susan S. Geiger
Assistant Attorney General

SSG/pad

88-020